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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,953	10/22/2001	Allen McTeer	M4065.0247/P247-A	8778
24998	7590	09/21/2004	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP			KENNEDY, JENNIFER M	
2101 L STREET NW			ART UNIT	
WASHINGTON, DC 20037-1526			PAPER NUMBER	
			2812	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Advisory Action	Application No. 09/982,953	Applicant(s) MCTEER, ALLEN	
	Examiner Jennifer M. Kennedy	Art Unit 2812	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's arguments were not found persuasive. See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 23-35, 58.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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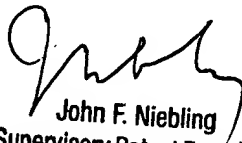
Art Unit: 2812

Applicant's arguments with regard to the rejections under 35 U.S.C. 103 have been fully considered, but they are not deemed to be persuasive for at least the following reasons.

The applicant argues that the AlN layer is not a heat-radiating layer. Moslehi clearly discloses the layer is highly thermal conductive, and the examiner points out that the material is the same of that of the applicants "heat radiating layer", namely AlN. The examiner notes that heat-radiating effects of the aluminum nitride is an intrinsic material property of the aluminum nitride, and thus the aluminum nitride layer of Moslehi as incorporated into Chiang et al. would have acted as both a passivation layer and a heat radiating layer.

Finally, in regards to the claimed thickness of the aluminum nitride layer, the examiner notes that the aluminum nitride layer is disclosed to be formed to a thickness of 50 to 300 angstroms (see column 14, lines 17-23) which overlaps the range of the claimed range of approximately 100 angstroms to approximately 1000 angstroms. The claim language of "comprising" does not preclude additional layers being formed. Further, the examiner notes that the specification contains no disclosure of either the critical nature of the claimed thickness or any unexpected results arising therefrom. Where patentability is said to be based upon a particular chosen thickness or upon another variable recited in a claim, the Applicant must show that the chosen thickness is critical. *In re Woodruf*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

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